

Applicant : Omar Gadir, et al.
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Attorney's Docket No.: 07575-053001 / P01-1912.01

REMARKS

Claims 1-40 are pending, of which claims 1, 22, 24, 25, 34, 35, and 38 are independent claims. Claims 1, 2, 4, 22, and 23 stand rejected. Claims 3 and 5-21 are objected to. Claims 24-40 are allowed. The applicant amended claims 1, 22, and 40 and respectfully requests reconsideration in view of the amendment and following remarks.

SECTION 102 REJECTIONS

Claim 1 stands rejected under 35 U.S.C. Section 102(e) as being anticipated by U.S. Publication Serial No. 2002/0120660 to Hay et al. ("the '660 reference"). Claim 1 recites a file server system in which a virtual server has as "exclusive resources a virtual interface to clients and one or more file systems." Notably, claim 1 recites "exclusive resources" (emphasis added), which plural form, by its plain meaning, requires at least two resources. Thus, the virtual server of claim 1 has at least two exclusive resources, one of which is a virtual interface to clients and the other of which is a file system. The Examiner appears to construe claim 1 so that a virtual server has only one exclusive resource, i.e., a virtual interface to clients and to one or more file systems. The plain language of claim 1 contradicts such a construction, and to the extent that the Examiner so construes claim 1, the applicant respectfully traverses the rejection.

To expedite prosecution and without accepting the Examiner's construction of claim 1, the applicant amended claim 1 to include the limitation of claim 3, which the Examiner has indicated would be allowable if rewritten in independent form including all limitations of its base and intervening claims. For at least the reason that claim 3 is allowable, the applicant respectfully submits that amended claim 1 and its dependent claims are in condition for allowance.

SECTION 103 REJECTIONS

Claim 2 stands rejected under 35 U.S.C. Section 103(a) as being unpatentable over the '660 reference in view of U.S. Publication Serial No. 2002/0152322 to Hay ("the '322 reference"). Claim 4 stands rejected under 35 U.S.C. Section 103(a) as being unpatentable over the '660 reference in view of U.S. Patent No. 5,513,314 to Kandasamy et al. Claims 2 and 4

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depend from claim 1 and are in condition for allowance for at least the reason that claim 1 is allowable.

Claim 22 stands rejected under 35 U.S.C. Section 103(a) as being unpatentable over the '660 reference in view of the '322 reference. The applicant respectfully traverses the rejection because the applied references do not disclose or suggest limitations of claim 22. For example, claim 22, before the amendment of the instant response, recites "a node configured with a virtual server having two or more simultaneously active virtual IP addresses." Thus, claim 22 requires that the virtual server has at least two simultaneously active virtual IP addresses.

The Examiner construes claim 22 so that the limitation of having two or more simultaneous virtual IP addresses is applied to the node and not the virtual server. The applicant must respectfully disagree. The plain language of the claim contradicts the Examiner construction. Claim 22 recites "a node configured with a virtual server having two or more simultaneously active virtual IP addresses." In accordance with the rules of grammar, the phrase "having two or more simultaneously active virtual IP addresses" modifies the nearest noun, which, in the instant case, is the virtual server and not the node. *See, e.g.,* Revelle Humanities Grammar Handbook; Guide to Grammar and Writing; *and* The Complete Idiot's Guide to Grammar and Style (copies of relevant pages provided). Thus, the applicant respectfully submits that the examiner's construction is improper and that claim 22 requires that the virtual server, and not the node, has at least two simultaneously active virtual IP addresses.

Moreover, the applicant respectfully submits that neither of the applied references discloses or suggests a virtual server having two or more simultaneously active virtual IP addresses. The '660 reference discloses that processes that operate inside of a virtual server are only able to access entities defined within the virtual server. *See* The '660 reference, at paragraph 33. Such a disclosure, however, is silent about the number of simultaneously active IP addresses that a virtual server has. The balance of the '660 reference is likewise silent. Thus, the '660 reference does not disclose or suggest a virtual server having two or more simultaneously active virtual IP addresses, as required by claim 22.

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The '322 reference discloses that name servers "are configured to receive requests to translate host names into IP addresses for hosts that are associated with virtual servers 111-113." The '322 reference, at paragraph 34. Load balancers receive the requests and route them to name servers. *See id.* Name servers are selected to receive requests based upon measured response times. *See id.* However, there is nothing in the '322 reference to disclose or suggest that a virtual server has "two or more simultaneously active virtual IP addresses," as required by claim 22. Indeed, paragraph 37 indicates otherwise. Paragraph 37 provides that a "client 124 sending a message to a virtual server 111 first obtains the IP address of the virtual server 111." The '322 reference, at paragraph 37 (emphasis added). The IP address is obtained by sending a request to a name server, which, as discussed above, translates the host name into a corresponding IP address. *See id.* The "client 124 uses the IP address to communicate directly with virtual server 111(C)." *Id.* (emphasis added). By its multiple uses of a definite article to refer to the IP address of the virtual server, paragraph 37 indicates that a virtual server has only one IP address. Thus, the '322 reference does not disclose or suggest a virtual server having two or more simultaneously active virtual IP addresses, as required by claim 22.

Moreover, the '322 reference teaches away from claim 22. The applicant respectfully submits that, in view of the '322 reference's teaching of a virtual server having only one IP address, one of ordinary skill in the art would be lead away from "a virtual server having two or more simultaneously active virtual IP addresses," as required by claim 22. For at least any of the above reasons, the applicant respectfully submits that claim 22 and its dependent claim are in condition for allowance.

To expedite prosecution and without accepting the Examiner's construction, the applicant amended claim 22, which now recites "a node configured with a virtual server, the server having two or more simultaneously active virtual IP addresses." The applicant respectfully submits that the amendment does not add new issues to prosecution because the plain language of claim 22 before amendment, as discussed above, already requires the construction that it is the virtual server and not the node that has two or more simultaneously active IP addresses. The applicant, thus, respectfully requests that the amendment be entered.

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CLAIM AMENDMENT

The applicant amended claim 40 to correct a typographical error. The applicant respectfully submits that the amendment does not add any new issues to prosecution and, thus, should be entered.

INFORMATION DISCLOSURE STATEMENT

On February 2, 2005, the applicant properly submitted an information disclosure statement with a PTO Form-1449. A return postcard indicates that the Office received the statement on February 5, 2005. The applicant respectfully requests the return of the initialed and signed PTO Form-1449.

CONCLUSION

The applicant respectfully requests that all pending claims be allowed. Please apply any appropriate charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: March 24, 2005

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